

AMENDED IN ASSEMBLY APRIL 19, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1445

Introduced by Assembly Member Umberg

February 22, 2005

~~An act to add Section 66025.7 to the Education Code, relating to student financial aid. An act to add Article 2.5 (commencing with Section 150) to Chapter 2 of Part 1 of Division 2 of the Military and Veterans Code, relating to the Military Department.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1445, as amended, Umberg. ~~Student financial aid: tuition and fee waivers: National Guard: State Military Reserve. Military Department: Office of Inspector General.~~

Existing law establishes in state government the Military Department, which includes the office of the Adjutant General, the State Military Reserve, the California Cadet Corp, and the Naval Militia. Existing law establishes various duties for these officers and entities.

This bill would establish the Office of the Inspector General for the Military Department. This bill would require the Governor to appoint the inspector general, subject to Senate confirmation, and specify that the inspector general is independent of the chain of command of the Military Department and serves at the discretion of the Governor. This bill would require the inspector general to investigate complaints and allegations of wrongdoing by military personnel, as specified, and would require the inspector general to establish a toll-free public telephone number to receive these complaints and allegations. This bill would also require that disciplinary action be brought against a state officer or employee who intentionally retaliates against a person

who made a complaint or allegation of wrongdoing to the inspector general, as provided, and would specify that these officers and employees may be liable for civil damages for these same actions.

~~Existing law, the Donahoe Higher Education Act, sets forth, among other things, the missions and functions of California's public and independent segments of higher education, and their respective institutions of higher education. Under existing law, the segments of the public higher education system in the state include the University of California, which is administered by the Regents of the University of California, the California State University, which is administered by the Trustees of the California State University, and the California Community Colleges, which is administered by the Board of Governors of the California Community Colleges. Provisions of the Donahoe Higher Education Act apply to the University of California only to the extent that the Regents of the University of California, by appropriate resolution, act to make a provision applicable.~~

~~This bill would add a provision to the act prohibiting any campus of the University of California, the California State University, or the California Community Colleges from charging any mandatory systemwide tuition or fees, including enrollment fees, registration fees, differential fees, or incidental fees, to qualifying members of the California Army National Guard, the California Air National Guard, or the State Military Reserve, as defined. The bill would require the Military Department to determine the eligibility of any applicant for a fee or tuition waiver under the bill, in accordance with regulations adopted by the Adjutant General. In accordance with existing law, the bill would apply to the University of California only if the regents act to make it applicable.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *It is the intent of the Legislature in enacting this*
2 *act to ensure that Military Department personnel who are*
3 *employed on state active duty, and thus are not under federal*
4 *military oversight, as well as those subject to the control of these*
5 *personnel, receive due process in the consideration of complaints*
6 *and appeals of disciplinary actions. Therefore, this act*
7 *establishes oversight procedures in regard to certain personnel*

1 actions including discrimination complaints, complaints of
2 retaliation for whistleblowing, and allegations of misconduct on
3 the part of senior managers and leaders.

4 SEC. 2. Article 2.5 (commencing with Section 150) is added
5 to Chapter 2 of Part 1 of Division 2 of the Military and Veterans
6 Code, to read:

7
8 Article 2.5. Office of the Inspector General for the Military
9 Department
10

11 150. For purposes of this article, the following terms have the
12 following meanings:

13 (a) "Department" means the Military Department.

14 (b) "Office" means the Office of the Inspector General for the
15 Military Department.

16 (c) "Inspector general" means the Inspector General for the
17 Military Department.

18 150.10. (a) There is hereby created the Office of the
19 Inspector General for the Military Department.

20 (b) The department shall, from the amount annually
21 appropriated to it, fund the position of inspector general and
22 provide the office space and support personnel requested by the
23 inspector general.

24 (c) The inspector general shall have access to all employees
25 and documents of the department.

26 150.11. (a) The inspector general shall meet the same
27 qualifications established in this code for the Adjutant General.

28 (b) The inspector general is independent of the chain of
29 command of the Military Department.

30 (c) (1) The Governor shall appoint the inspector general,
31 subject to confirmation by the Senate.

32 (2) Upon confirmation by the Senate, the inspector general
33 shall serve at the discretion of the Governor.

34 (3) The inspector general shall serve on state active duty at
35 the grade of O-6.

36 150.12. (a) The inspector general may receive
37 communications from any person, including, but not limited to,
38 any member of the California National Guard, the State Military
39 Reserve, and the Naval Militia.

1 **(b)** *The inspector general shall establish a toll-free public*
2 *telephone number to receive the complaints and allegations*
3 *described in subdivision (a) of Section 150.13. The inspector*
4 *general shall post this telephone number in clear view at every*
5 *California National Guard armory, flight facility, airfield, or*
6 *installation.*

7 **150.13. (a)** *At the discretion of the inspector general or,*
8 *upon a written request by the Governor, a member of the*
9 *California Legislature, the Adjutant General, or any member of*
10 *the public, the inspector general shall investigate any of the*
11 *following:*

12 **(1)** *Complaints that the Adjutant General or the Assistant*
13 *Adjutant General has engaged in discrimination or retaliation*
14 *for whistleblowing.*

15 **(2)** *Allegations of misconduct by the Adjutant General or the*
16 *Assistant Adjutant General.*

17 **(3)** *Allegations of misconduct by a person on state active duty*
18 *in the following grade and position:*

19 **(A)** *Officers in grades O-6 and higher.*

20 **(B)** *The Commander, the Command Sergeant Major, the*
21 *Department Command Sergeant Major/Command Chief Master*
22 *Sergeant and Command Sergeants Major/Command Chief*
23 *Master Sergeants for the Army, Air, and Joint Divisions of the*
24 *State Military Reserve, and the equivalent positions in the Naval*
25 *Militia.*

26 **(4)** *Any other matter involving misconduct by state military*
27 *personnel that have oversight over state administrative functions*
28 *or state funding.*

29 **(b)** *If the inspector general conducts an investigation at the*
30 *request of a member of the California Legislature, the inspector*
31 *general shall submit to that member a report of his or her*
32 *findings of that investigation.*

33 **(c) (1)** *A request described in subdivision (a) is not a public*
34 *record and is not subject to disclosure under the California*
35 *Public Records Act set forth in Chapter 3.5 (commencing with*
36 *Section 6250) of Division 7 of Title 1 of the Government Code.*

37 **(2)** *Notwithstanding paragraph (1), the inspector general may,*
38 *at his or her discretion, disclose to the Governor, a member of*
39 *the California Legislature, or to a law enforcement agency the*
40 *identity of a person making a written request or an allegation or*

1 *complaint described in subdivision (a). The inspector general*
2 *shall not disclose to any other person or entity the identity of a*
3 *person making a written request or an allegation or complaint*
4 *described in subdivision (a), unless the person making the*
5 *request, allegation, or complaint has consented to the disclosure*
6 *in writing.*

7 *(d) When deemed appropriate by the inspector general, the*
8 *inspector general shall refer to the federal Inspector General of*
9 *the Department of Defense any complaints and allegations*
10 *pertaining to violations of federal military laws or regulations.*

11 *150.14. (a) Any state officer or employee who intentionally*
12 *engages in acts of reprisal, retaliation, threats, coercion, or*
13 *similar acts against an employee of any state department, board,*
14 *or authority for having disclosed what the employee, in good*
15 *faith, believed to be a complaint or allegation described in*
16 *subdivision (a) of Section 150.13 shall be disciplined by adverse*
17 *action as provided in subdivision (a) of Section 19574 of the*
18 *Government Code. If no adverse action is instituted by the*
19 *appointing power, the State Personnel Board shall take adverse*
20 *action against the officer or employee in the same manner as*
21 *provided in Section 19583.5 of the Government Code.*

22 *(b) In addition to all other causes of action, penalties, or other*
23 *remedies provided by law, any state officer or employee who*
24 *intentionally engages in acts of reprisal, retaliation, threats,*
25 *coercion, or similar acts against an employee for having*
26 *disclosed what the employee, in good faith, believed to be a*
27 *complaint or allegation described in subdivision (a) of Section*
28 *150.13 shall be liable in an action for damages brought against*
29 *him or her by the injured party. Punitive damages may be*
30 *awarded by the court if the acts of the offending party are proven*
31 *to be malicious. If liability has been established, the injured*
32 *party also shall be entitled to reasonable attorney's fees as*
33 *provided by law.*

34 *(c) For purposes of this section "state officer" includes, but is*
35 *not limited to, a member of the Military Department on state*
36 *active duty and any officer who holds a state commission or*
37 *appointment by the Governor.*

38 ~~SECTION 1. Section 66025.7 is added to the Education~~
39 ~~Code, to read:~~

~~66025.7. (a) Notwithstanding any other provision of law, no campus of the University of California, the California State University, or the California Community Colleges shall charge any mandatory systemwide tuition or fees, including enrollment fees, registration fees, differential fees, or incidental fees to a student who meets all of the following requirements:~~

~~(1) Resident classification, as defined in Section 68022.~~

~~(2) Active membership in the California Army National Guard or the California Air National Guard, as defined in Section 101 of Title 32 of the United States Code as that section exists on January 1, 2005, or the State Military Reserve, as defined in Chapter 3 (commencing with Section 550) of Part 2 of Division 2 of the Military and Veterans Code, for a minimum of one year prior to the submission of an application for a grant under this section.~~

~~(3) Satisfactory participation in unit training, as determined by the Office of the Adjutant General, during the year prior to submission of an application for a grant under this section and for all subsequent periods during which a grant under this section is provided or requested.~~

~~(4) Enrollment, on an at least a half-time basis, in an undergraduate program of instruction at a campus of the University of California, the California State University, or the California Community Colleges.~~

~~(5) Satisfactory documentation of a household income level that does not exceed the income ceiling for the Cal Grant B program as it is set forth in Section 69432.7.~~

~~(b) The Military Department shall determine the eligibility of any applicant for a fee or tuition waiver under this section in accordance with regulations adopted by the Adjutant General.~~